



Outrun Advisors Pty Ltd T/As Outrun Realty

Uncollected goods

What are uncollected goods?

Goods may become uncollected if they're left or abandoned with someone who isn't the owner, or if they're lost. For example:

- when consumers leave goods with a business for repair or treatment and don't return to collect them such as a car left with a motor repairer or clothes left at the drycleaners
- when a business can't return goods to their owner. For example because they can't communicate with or trace the owner
- when goods are left behind by tenants, residents or anyone sharing with a tenant at the end of a tenancy or other occupancy
- when an unknown person leaves goods on common property such as in a strata scheme parking or storage area, which are reasonably believed to have been abandoned.

The Uncollected Goods Act

The *Uncollected Goods Act 1995* gives the person in possession of the goods the right to dispose of them after a certain amount of time.

The amount of time and manner of disposal depends on the type and value of the goods.

The owner of the goods is responsible for them.

If they do not take action to regain possession the goods may be lawfully sold or destroyed if proper processes are followed.

What is covered by the Act

The Act is available to dispose of uncollected goods where there's no agreement about disposal between the owner and person in possession of the goods.

If there's an agreement, the Act applies to any parts that aren't dealt with in the agreement.

The Act applies to goods left behind in certain residential and housing schemes including:

- boarding houses
- community schemes
- holiday parks
- residential land lease communities
- residential tenancies
- retirement villages
- strata schemes.

What isn't covered by the Act

The Act is only available to dispose of uncollected goods where there is no agreement between the owner and person in possession of the goods about disposal. If there is an agreement, the Act applies to any parts that are not dealt with in the agreement.

The Act is not available to dispose of some goods and animals including:

- lost or abandoned pets (*Companion Animals Act 1998*)
- goods left behind on public transport (*Passenger Transport Act 2014* and *Passenger Transport Act 1990*)
- pawned goods (*Pawnbrokers and Second-hand Dealers Act 1996*)
- goods left with a storage company (*Storage Liens Act 1988*)
- motor vehicles with a tow truck operator (*Tow Truck Industry Act 1998*)
- money owed to people that cannot be found (*Unclaimed Money Act 1995*).

If someone leaves their goods with you

If goods are left with you, you have a duty to safeguard them for the owner.

The owner of the goods, or anybody with a legal interest in the goods, can reclaim the items at any time while they are in your possession.

You can ask for any actual costs you've incurred in removing, storing, maintaining or insuring the goods.

However, you can't refuse to return the belongings because the owner owes rent or money for another reason.

If you follow the process in the Act, you can dispose of the goods after a certain amount of time.

The amount of time and manner of disposal depends on the value and type of goods.

When and how do I need to provide notice?

You can give the owner of the goods notice personally, by letter or email.

The notice must include:

- your name or the business name
- a description of the goods
- an address where the owner can collect the goods
- a statement of any relevant charges (e.g. removal, storage, maintenance and insurance costs) and if you or the business are planning to take money out of the sale to cover those charges
- a statement that on or after a specified date, the goods will be sold, kept or destroyed unless they are first collected and the relevant charges are paid.

What if I don't know the other party or can't contact them?

You should make reasonable efforts to identify the owner of the goods and communicate with them.

If this isn't possible, you should store the goods for the relevant period and sell or dispose of them once the period has ended.

What can I do if sale of the goods doesn't cover the costs?

If the proceeds of sale aren't enough to pay the relevant charges due to you or your business, you can recover the amount as a debt in court.

What money can I keep from a sale of uncollected goods?

You can retain any charges that the owner agreed to pay for the repair or treatment of the goods, for example in a warranty agreement. You are also entitled to retain the amount of the costs that you incur for removal, storage, maintenance, insurance and disposal.

These charges should not include any profit. They should only reflect the actual cost to you or the business while the goods are 'uncollected'. No charges are due for personal documents.

Any money made above those costs should go to the Chief Commissioner of Revenue NSW if you cannot return the money to the owner.

More information on how to lodge unclaimed money is available on the Revenue NSW website at: <https://www.revenue.nsw.gov.au/unclaimed-money/lodge>

Can a landlord charge occupation or other fees for uncollected goods?

Landlords can't charge tenants an 'occupation fee' equal to the rent for each day goods are left on their premises once a residential tenancy ends.

You can only charge a tenant for the actual costs incurred to remove, store, maintain, insure and dispose of goods. No other charges are due.

What records do I need to keep?

What information do I need to keep?

You must make a record within 7 days of disposing of all goods, except rubbish and perishable items, that includes:

- a description of the goods
- the date of disposal
- the manner of disposal
- if the goods were sold, the name and address of the buyer, amount of proceeds of sale and the amount retained to cover the relevant charges
- if the goods are sold by public auction, the name and address of the principal place of business of the auctioneer.

You may also want to keep records of the notice that you provide to the owner or any attempts to contact and trace the owner. In legal proceedings, the person who disposed of the goods has the 'burden of proof' and must show that they complied with the law.

How long do I need to keep records?

How long you need to keep records depends on the value. If the item was low value, you should keep the records for 12 months. For all other goods, you should keep records for 6 years. The owner or another person claiming interest in the goods can inspect the records on request.

How do I value goods left behind?

The value of the goods is a reasonable estimate of the market value. In other words, the estimated amount that the goods could be sold for after reasonable efforts to sell it.

If a number of goods are uncollected, you should value them individually unless the items clearly make up a set. For example, a television and some clothing would be valued individually while a dining table with a set of dining room chairs would be valued as one item.

If you leave your goods with someone else

You can reclaim your items at any time while they are in the other party's possession. However, you may be asked to pay any costs they have incurred in removing, storing, maintaining or insuring the goods.

You can't be asked to pay outstanding rent or money owing for some other reason in exchange for the return of your goods.

If the person who has your goods won't return them or allow you to collect them, you can apply for a Tribunal order to require that they deliver the goods to you. See the Dispute section below.

What costs am I responsible for?

The other party has a duty to safeguard your belongings. They can charge you for reasonable costs they incur for all goods except personal documents.

Charges include anything you agreed to pay for the repair or treatment of the goods, for example, in a warranty agreement. They may also include the amount of any costs for storage, maintenance, insurance and disposal of the goods.

The charges should not include any profit. They should only reflect the cost from when the goods became 'uncollected' to when they are disposed of.

What happens if my item is sold?

When an item is sold, the person in possession of the goods can deduct any charges owing to them for the repair of the goods or costs they have incurred.

If there's any money left, the amount should be refunded to you or treated as 'unclaimed money' and transferred to [Revenue NSW](#) so you can claim it.

If the proceeds of sale are not enough to pay the relevant charges due to the person who had your goods, they can recover the amount from you as a debt in court.

How can I get the money from the sale of my goods?

You can ask the person in possession of the goods to pay you any money they made that is greater than the costs they incurred.

You can also search for unclaimed money on [Revenue NSW](#).

If the person in possession of your goods doesn't pay you for any surplus proceeds, and hasn't transferred it to Revenue NSW, you can apply for a Tribunal order. See the Dispute section below.

What can I do if my goods are damaged or unlawfully destroyed?

If the person who has possession of your goods doesn't follow the necessary process when dealing with uncollected goods, you can apply to the Tribunal for compensation for any damage to your belongings while they were in their possession. See the Disputes section below.

Can I reclaim my item if it has already been sold to someone else?

Goods pass with 'clear title' when they are sold.

You can only reclaim an item from the buyer if they were aware the sale wasn't lawful, because the person in possession of the goods didn't comply with the Act, or that the seller was not entitled to sell the item.

Disposal of goods left behind

How a receiver can dispose of goods depends on the value and the type of good. There are separate provisions for rubbish, perishables and personal documents.

Type of goods	Manner of notice	Notice period	Manner of disposal
Rubbish and perishables	Not required	Not required	Any appropriate manner
Personal documents	Written	28 days	Return to author or securely destroy
Other goods – less than \$1,000	Verbal or written	14 days	Any appropriate manner
Other goods - between \$1,000 and \$20,000	Written	28 days	Public auction or private sale for a fair value
Other goods – over \$20,000	In accordance with Tribunal order	In accordance with Tribunal order	In accordance with Tribunal order

Personal documents

Personal documents are goods that may have a very low or no market value but may be important to the owner. They include:

- documents that confer authorities, rights or qualifications, for example, licences

- employment documents, for example, references
- financial documents, for example, bank books
- identity documents, for example, passports
- legal documents, for example, wills
- medical records, for example, previous surgeries
- photographs and other personal memorabilia.

Motor vehicle disposal

A receiver can't dispose of a motor vehicle unless they have obtained a certificate from the Commissioner of Police and a written search result from the Personal Property Securities Register that confirms the vehicle is not stolen.

After this certificate has been issued and the search completed, follow the above guidelines.

Uncollected motor vehicles can be moved or stored in an appropriate manner and the circumstances meet the criteria of the Act.

For example, a strata scheme can only move a motor vehicle left on common property if it is reasonably believed to have been abandoned.

Disputes

The NSW Civil and Administrative Tribunal has jurisdiction relating to the *Uncollected Goods Act* and should be contacted for more information if there is a dispute

Application time periods for Tribunal orders

The time the depositor or person with an interest in the goods has to apply for a Tribunal order depends on the value of the goods and the order they are seeking.

The time period begins when the person who has the goods provided notice. If they did not provide notice, it begins on the day which the goods were left in the possession of the receiver.

Application time periods do not apply to any other orders that the Tribunal can issue regarding uncollected goods.

Order	Low value	Medium value	High value	Personal documents
Compensation for goods destroyed	60 days	60 days	90 days	90 days

Order	Low value	Medium value	High value	Personal documents
Compensation for goods damaged	60 days	60 days	90 days	90 days
Delivery to owner or other person	180 days	180 days	180 days	180 days
Payment of proceeds of sale or equivalent amount to owner or other person	180 days	180 days	180 days	N/A

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<https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/selling-goods-and-services/uncollected-goods> 07-07-20

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